



Applicant: Yoshimitsu SHIMOJO et al.

Title: PACKET SWITCH AND PACKET SWITCHING METHOD USING
PRIORITY CONTROL BASED ON CONGESTION STATUS WITHIN
PACKET SWITCH

Appl. No.: 10/667,320

Filing Date: 9/23/2003

Examiner: Sawhney, Vaibhav

Art Unit: 2616

Confirmation No.: 9259

TERMINAL DISCLAIMER

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Your Petitioner, KABUSHIKI KAISHA TOSHIBA, having its principal place of business at 72 Horikawa-cho, Saiwai-ku, Kawasaki-shi, Kanagawa-ken, Japan, represents that it is the owner of the entire right, title, and interest in and to U.S. Patent Application Serial No. 10/667,320, filed 9/23/2003, which is a continuation of U.S. Patent Application No. 09/461,362, filed 12/15/1999, by virtue of an Assignment filed and recorded on 12/15/1999, on Reel/Frame 010467/0245, in the United States Patent and Trademark Office, a copy of which is attached hereto as APPENDIX A. Further, your Petitioner represents that it is the owner of U.S. Patent Application No. 6,643,256, filed 12/15/1999, which matured from U.S. Patent Application No. 09/461,362, by virtue of the Assignment filed and recorded on 12/15/1999, on Reel/Frame 010467/0245 (attached hereto as APPENDIX A).

Your Petitioner, KABUSHIKI KAISHA TOSHIBA, hereby disclaims the terminal part of the term of any patent granted on U.S. Patent Application 10/667,320 which would extend beyond the full statutory term, as shortened by any terminal disclaimer, of any patent granted on U.S. Patent Application 6,643,256, and hereby agrees that any patent so granted on U.S. Patent Application 10/667,320 shall be enforceable only for and during such period that the legal title to any patent granted on U.S. Patent Application 6,643,256 shall be the same as the legal title to any patent granted on U.S. Patent Application 10/667,320, this agreement to run with any patent granted on U.S. Patent Application 10/667,320 and to be binding upon the grantee, its successors or assigns.

08/22/2007 MAHMEI 00000042 10667320

01 FC:1814

130.00 0P

In making the above disclaimer, Petitioner does not disclaim any terminal part of any patent granted on U.S. Patent Application 10/667,320, prior to the full statutory term of any patent granted on U.S. Patent Application 6,643,256 as defined in 35 U.S.C. §§ 154-156 and 173, in the event that any patent granted on U.S. Patent Application 6,643,256 expires for failure to pay a maintenance fee, is held unenforceable or is found invalid in a final judgment by a court of competent jurisdiction, is statutorily disclaimed in whole or terminally disclaimed under 37 CFR §1.321(a), has all claims canceled by a reexamination certificate or as a result of an interference proceeding, or is otherwise not deemed to provide the rights conveyed by 35 USC §154, prior to the full statutory term of any patent granted on U.S. Patent Application 6,643,256 as defined in 35 USC §§ 154-156 and 173, except for the separation of legal title stated above. Further, Petitioner does not disclaim any terminal part of a patent granted on U.S. Patent Application 10/667,320 that would extend beyond the present termination of any patent granted on U.S. Patent Application 6,643,256, in the event that such present term is extended by virtue of compliance with the conditions for term extension of any present or future patent term extension provisions of the patent law, including but not limited to 35 U.S.C. §§ 155, 155A or 156, and without waiving Petitioner's right to extend the term of a patent granted on U.S. Patent Application 10/667,320 to the extent provided by law.

The undersigned, being the Attorney of Record for U.S. Patent Application 10/667,320, and duly authorized to act on behalf of Petitioner, certifies that he has reviewed the Assignment attached as APPENDIX A, and to the best of his knowledge and belief, legal title to U.S. Patent Application 10/667,320 and any patent granted on U.S. Patent Application 6,643,256 rests with Petitioners, KABUSHIKI KAISHA TOSHIBA. The undersigned declares that all statements made herein of his own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001, Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the above-identified application or any patent issuing therefrom.

Respectfully submitted,

Date August 21, 2007

FOLEY & LARDNER LLP
Customer Number: 22428
Telephone: (202) 672-5414
Facsimile: (202) 672-5399

By Phillip J. Articola

Richard L. Schwaab
Registration No. 25,479

Phillip J. Articola
Registration No. 38,819